

REMARKS

Applicants respectfully request reconsideration of the above-identified application in lieu of the amendments and remarks set forth herein. Clarifying amendments have been made to Claims 1, 10, and 22. Claims 1, 4-6, 10, and 20-26 remain pending in the present application.

Claims 1, 5, 6, 10, 21-24, and 26 were rejected in a November 13, 2008, Office Action (hereinafter "Office Action") under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,030,349, issued to Wilson et al. ("Wilson"), in view of U.S. Patent No. 6,533,772, issued to Sherts et al. ("Sherts"). Claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,137,517, issued to Loney et al. ("Loney"), in view of Sherts and further in view of U.S. Patent No. 4,858,810, issued to Intlekofer et al. ("Intlekofer"). Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson in view of Sherts, and further in view of Intlekofer. Claim 25 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Loney in view of Sherts and Intlekofer, and further in view of Wilson. Claim 22 has also been objected to because of minor informalities. As will be discussed in further detail below, applicants respectfully assert that the present application is in condition for allowance.

Claim Objections

Claim 22 stands objected to because of a minor informality. Accordingly, applicants have amended Claim 22 to address the claim objection set forth in paragraph 2 of the Office Action. Accordingly, applicants respectfully request withdrawal of the claim objection.

Claim Rejections Under 35 U.S.C. § 103

Claims 1, 5, 6, 10, 21-24, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson in view of Sherts. Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Loney in view of Sherts, and further in view of Intlekofer. Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson in view of Sherts, and further in view of Intlekofer. Claim 25 stands rejected under 35 U.S.C. § 103(a) as being

unpatentable over Loney in view of Sherts and Intlekofer, and further in view of Wilson. Applicants respectfully traverse the rejection of these claims.

Under Section 103, a *prima facie* case of obviousness is established only if the cited references, alone or in combination, teach each of the limitations of the recited claims. *In re Bell*, 991 F.2d 781 (Fed. Cir. 1993). Further, as a general rule, a conclusion of obviousness requires a determination as to whether there was an *apparent reason* to combine the known elements in the fashion claimed by the patent at issue. *KSR Int'l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727, 82 U.S.P.Q.2d 1385 (2007). As will be discussed in detail below, the claims of the present application recite combinations of features neither disclosed nor rendered obvious by the prior art.

Independent Claim 1

The Office Action contends that Wilson discloses each and every element of Claim 1 except for a slider that operates with longitudinal movement. To arrive at the combination of features recited in Claim 1, the Office Action looks to Sherts, which purportedly teaches an analogous device having a slider button 106 that is longitudinally slideable within a channel to variably compress a wire between a vertically moving clamp pad 104 and the bottom of the channel. Accordingly, the Office Action contends that it would have been obvious to one of ordinary skill in the art to modify the slider of Wilson to be longitudinally slideable within the open ended channel of the body portion as taught by Sherts to more effectively compress the wire such as by allowing more degree or variation of the amount of compression of the wire, depending on the slider's longitudinal position.

Independent Claim 1, from which Claims 4-6, 21-23, and 26 depend, recites a device for applying torque to a wire. The device comprises a body portion having an open ended channel that extends along an entire length of the body portion for allowing the wire to be side-loaded into the channel, a tongue including a first engagement surface positioned above the bottom surface of the channel, and a slider that is longitudinally slideable within the open ended channel

of the body portion and having a second engagement surface disposed adjacent the wire when the wire is side-loaded in the channel.

Claim 1 has been amended to recite that the tongue is suspended in the channel between the opposing side walls of the open ended channel. As set forth in paragraph 5 of the Office Action, the Office Action characterizes the tongue as the first ledge 38 having an engagement surface (first upper surface 44), as best shown in Figures 3 and 4 of Wilson. As clearly shown in Figures 3 and 4 and described in Col. 4, lines 23-27 of Wilson, the first ledge 38 is not suspended between opposing side walls of the channel 34. Rather, the first ledge 38 defines a section of the channel 34. See Col. 4, lines 12-16. From a review of Sherts, Sherts fails to correct the deficiencies in Wilson.

It is clear from the foregoing that Wilson and Sherts fail to disclose or render obvious each and every element of amended Claim 1. Therefore, applicants assert that a *prima facie* case of obviousness has not been established. Thus, applicants respectfully request withdrawal of the rejection to Claim 1. Further, applicants respectfully request withdrawal of the pending rejections to Claims 4-6, 21-23, and 26, which depend from allowable Claim 1.

Independent Claim 10

The Office Action contends that Wilson discloses each and every element of Claim 10 except for a slider that operates with longitudinal movement. To arrive at the combination of features recited in Claim 10, the Office Action looks to Sherts, which purportedly teaches an analogous device having a slider button 106 that is longitudinally slideable within a channel to variably compress a wire between a vertically moving clamp pad 104 and the bottom of the channel. Accordingly, the Office Action contends that it would have been obvious to one of ordinary skill in the art to modify the slider of Wilson to be longitudinally slideable within the open ended channel of the body portion as taught by Sherts to more effectively compress the wire such as by allowing more degree or variation of the amount of compression of the wire, depending on the slider's longitudinal position.

Independent Claim 10, from which Claim 24 depends, is directed to a wire torquing device. The wire torquing device includes a body, an open ended channel extending along the entire length of the body into which a wire can be laterally fitted, and a slider that remains in the open ended channel as the wire is laterally fitted along the length of the open ended channel and is movable longitudinally therein. The slider includes an open ended channel configured for laterally receiving the wire and being substantially aligned with the open ended channel of the body.

Claim 10 has been amended to recite a projection that projects into the open ended channel and is suspended above the open ended channel's bottom surface. As was discussed above with regard to Claim 1, Wilson and Sherts clearly fail to disclose or render obvious such a feature. Therefore, applicants assert that a *prima facie* case of obviousness has not been established. Thus, applicants respectfully request withdrawal of the rejection to Claim 10. Further, applicants respectfully request withdrawal of the pending rejection to Claim 24, which depends from allowable Claim 10.

Independent Claim 20

The Office Action contends that Loney discloses each and every element of Claim 20 except for the channel including a fixed wedge positioned on one of the side walls of the channel and the slider having an engagement surface facing the wedge. The Office Action looks to Sherts, which purportedly discloses a fixed clamp pad 104 on the side wall of the channel 100(b) but fails to disclose that the clamp pad 104 is wedge shaped. The Office Action then looks to Intlekofer, which purportedly discloses a wedge 24 used to effectively pinch a wire against the bottom of an inclined bottom surface 34 of the body member 10. Accordingly, the Office Action contends that it would have been obvious to one of ordinary skill in the art to modify the device of Loney to include the fixed clamp pad of Sherts, and to further modify the fixed clamp pad of Sherts to be wedge shaped as disclosed by Intlekofer to more effectively pinch the wire against the bottom of the channel.

Applicants agree with the Office Action that Loney fails to disclose a fixed wedge positioned on the side wall of the open ended channel. Applicants also agree with the Office Action that Sherts fails to disclose a fixed wedge positioned on the side wall of the open ended channel. Applicants, however, respectfully disagree with the Office Action's characterization of Intlekofer in that the wedge 24 is a thumb piece that slides within the channel as shown in FIGURES 1 and 3, and therefore, is not a "fixed wedge ... positioned on one of the side wall of the U-shaped channel." Thus, applicants assert that the combination of Loney, Sherts, and Intlekofer fails to disclose or render obvious each and every element of Claim 20.

Applicants further assert there is no apparent reason to combine Loney with Sherts or Loney and Sherts with Intlekofer. Specifically, one of ordinary skill in the art would not modify the channel of Loney to include the clamp pad of Sherts since the device of Loney already provided sufficient clamping of the wire between the engagement surface 48 of the sliding member 16 and the bottom surface 38 of the slot 12. Additionally, one of ordinary skill in the art would not modify the clamp pad 104 to have a wedge shape since the ramp surfaces 52, 54 of Loney move the engagement surface 48 laterally downwardly with respect to the bottom surface 38 as well as maintaining the engagement surface 48 substantially horizontal (and parallel with the bottom surface 38) to provide the largest clamping surface against the wire. Thus, to maintain the largest clamping surface, one of ordinary skill in the art would not form the clamp pad as a wedge, which would result in a decrease in the clamping surface against the wire for holding it in place. As such, Applicants believes that the Office Action is using hindsight reasoning, which is not permissible, to combine the references in the manner set forth in the Office Action, and but for the knowledge gained by reviewing applicants' specification, the Office Action would not have combined the references in the manner claimed.

For at least the reasons described above, applicants respectfully assert there is no apparent reason to combine Loney, Sherts, and Intlekofer as proposed by the Office Action. Moreover, applicants respectfully assert that the proposed combination of Loney, Sherts, and

Intlekofer fails to disclose each and every element recited in Claim 20. Therefore, applicants submit that a *prima facie* case of obviousness has not been established. Thus, applicants respectfully request the pending rejection of Claim 20 under 35 U.S.C. § 103(a) be withdrawn.

Dependent Claims 4 and 25

Dependent Claims 4 and 25 depend from Claims 1 and 20, respectively, and thus, contain all of the elements of Claims 1 and 20. Therefore, for at least the same reasons as discussed above with regard to Claims 1 and 20, Claims 4 and 25 are allowable over the cited references. Accordingly, applicants respectfully request withdrawal of the pending rejections under 35 U.S.C. § 103(a) with regard to Claims 4 and 25.

CONCLUSION

In light of the foregoing amendments and remarks, applicants assert that the claims of the present application recite combinations of features not disclosed or rendered by obvious prior art. Therefore, applicants respectfully request early and favorable action and the allowance of all pending claims. If any further questions remain, the Examiner is invited to telephone applicants' attorney at the number listed below.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}



Brandon C. Stallman
Registration No. 46,468
Direct Dial No. 206.695.1708

BSC:sjt/meb